

EXHIBIT D

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

-----X  
UNITED STATES OF AMERICA,

vs.

BERNARD J. BEEBE,

Defendant  
-----X

**AFFIDAVIT OF  
BERNARD J. BEEBE**

7:07-cr-00542-scr

STATE OF NEW YORK     )  
                                  ) ss.:  
COUNTY OF ORANGE     )

Bernard J. Beebe, being duly sworn, deposes and says:

1. I am the Defendant in the above-captioned matter.

2. I, hereby submit this Affidavit in support of my motion to suppress physical evidence upon the ground that such was obtained in violation of my rights under the Fourth Amendment; and suppressing statements attributed to me upon the ground that such statements were obtained in violation of my rights under the Fifth and Sixth Amendments.

3. Early on the morning of August 23, 2006, while I was at work, I received a frantic telephone call from my wife who was at home with our children. She informed me that Federal Agents were searching our house, taking out computers and ancillary materials.

4. I spoke to an agent who was at my house and I was told that they wanted to speak to me at Homeland Security Offices. They gave me the address and they told me I should leave work and report promptly to that address.

5. I left work immediately and traveled to the Homeland Security address. While in transit, I called my wife and instructed her to call the only attorney we knew, who was our real estate attorney.

6. After numerous attempts, she spoke with our attorney and asked what questions should I ask of the Homeland Security agents. Two questions were noted as paramount: First, "Am I the subject of the investigation" and second, "Do I need a lawyer".

7. I arrived at Homeland Security offices, fifteen to thirty minutes before the agents did and waited for them to return from my home.

8. Upon arrival, I was brought from one office to another office and sat down with two agents. Agents Raudenski and Fitzsimmons began questioning me at approximately 12:00 p.m.

9. Before the interrogation transpired, I asked the agents the two questions, if I was the subject of the investigation and do I need a lawyer.

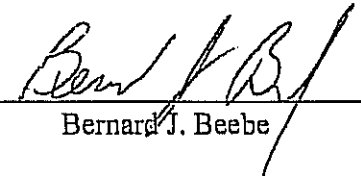
10. Their response to the first questions was "it is hard to tell since our investigation is based on the Internet. Respect to the second question, do I need a lawyer, their response was "no".

11. At no point was I given my Miranda warnings and at no point were my rights explained to me.

12. I thought I was being arrested during the investigation. It never crossed my mind that I could say no because if I didn't cooperate, I felt I was going to be arrested.

13. The agents kept me at the office for approximately one hour and a half. They never told me I did not have to talk to them or that anything I told them could be used against me. At all times I felt as if I was not free to leave as the Agents continually asked me questions.

WHEREFORE, it is respectfully requested that the Court suppress the evidence and statements, or in the alternative, grant a hearing on the issues raised, and for such other and further relief as the court deems just, proper and equitable.

  
Bernard J. Beebe

Sworn to before me this

12<sup>th</sup> day of October, 2007.



NOTARY PUBLIC

ALICE A. KENOE  
Notary Public, State of New York  
No. 01KE4978211  
Qualified in Orange County  
Term Expires February 25, 18

2011